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PART - I: Orders and notification by the Governor of West-Bengal, the High Court, Government Treasury, etc.

**GOVERNMENT OF WEST BENGAL
FISHERIES DEPARTMENT
NOTIFICATION**

NO. 1979-Fish/C-I/29th April 1985. In exercise of the Sower conferred by section 19 of the West Bengal Inland Fisheries Act, 1984 (West Ben. Act XXV of 1984). the Governor is pleased to make the following rules, namely :

THE WEST BEANGAL INLAND FISHERIES RULES, 1985

CHAPTER - I

General

1. **Short Titles :** These rules may be called the West Bengal Inland Fisheries Rules, 1985
2. **Definitions :** (1) In these rules unless there is anything repugnant in the subject or context—
 - (a) "the act" means the West Bengal Inland Fisheries Act 1984 (West Ben. Act XXV of 1984) ;
 - (b) "Section" means a section of the Act ;
- (2) Any expression used but not defined in these rules shall have the same meaning as defined in the Act.

CHAPTER - II

Proper Utilization of multi-ownership or other tanks

- (3) Prevailing norms of proper utilization of multi-ownership or other tanks. The prevailing norms of pisciculture shall mean and include.
- (a) The embankment of the tank shall be such as to prevent unregulated ingress or egress of water ;
- (b) The tank shall be deweeded regularly so that at least three fourth of the waterbody remain free from weeds ;
- (c) The stocking of fish seed in the tank shall be at least four thousand cultivable carps or at least eight thousand other cultivable species per ha.

Explanation : For the purpose of this rule cultivable carps shall mean and include rohu, catla, mrigal, calbasu, silver carp, grass carp and common carp and other, cultivable species shall mean and include magur, singhi, kai, puntias javanias, bata, sarpunti, galda, bagda, parse, bhangan and bhetki.

- (d) These shall be supplementary feeding, manuring and liming as may -----be required in a given condition and as the competent authority may consider reasonable.
4. **Notice and manner of serving notice :** (1) The notice as per subsection (1) of section 8 shall be served on every owner and occupier of the tank inviting their objection as to the intention of such taking over the management and control of such tank. The notice shall also be served by the hanging a copy thereof in a prominent place near the tank in the presence of at least two witnesses of the locality. (2) If after due diligence, any owner or occupier is found not available, the notice may be served on an adult male member of his family.
5. **Disposal of objections :** If any objection is received within the date specified in the notice, the competent authority shall consider the same by giving a personal hearing to the objector or objectors. If he finds the objection reasonable, he shall accept the same by giving the reasons in writing therefore and shall issue an order cancelling the notice under rule 4. If, however, he finds the objection unreasonable or otherwise not

tenable he shall reject the same after giving the reasons in writing therefore and shall proceed to take further action.

6. **Take over :** Where no objection has been received or where any objection has been rejected, the competent authority shall issue an order stating that the Government has taken over the management and control of the tank and the copies of such order shall be published by affixing on the official notice board and in a prominent place near the tank and shall also be served on the owners and occupiers of the tank in the manner prescribed in rule 4.
7. **Taking possession :** Immediately after service of the order as per rule 6 the competent authority or an officer authorised by him in this behalf shall take over physical possession of the tank.
8. **Rent :** The rent payable per annum to the co-shares or co-owners of a multi-ownership tank for taking over the management and control of a tank shall be assessed at the rate of four per centum per annum of the market value of the tank. In addition, the co-shares or co-owners shall also be paid a reasonable non-recurring lump sum amount on account of any fish not removed by them.
9. **Appointment amongst co-shares or co-owners :** The rent payable under rule 8 shall be apportioned by the competent authority to each co-sharer or co-owner in accordance with the nature and extent of share or interest held by each such co-sharer or co-owner as the case may be after making necessary local enquiry.
10. **Claims :** After determination of the rent as per the foregoing rule and apportionment therefore, the competent authority shall intimate the quantum of such rent receivable by each person holding an interest in the tank and asking them to submit their respective claims.
11. **Payment of rent :** Such claims shall be paid off annually by the competent authority after due verification within a period of six months from the date of receipt of claims.

12. **Utilisation of tank after taking over :** After a tank is taken over for management and control, the competent authority shall either arrange to start pisciculture therein by the officer and staff under him or arrange to transfer it to some other person for starting pisciculture in accordance with the prevailing norms.
13. **Notice of transfer :** Where the competent authority decides to transfer the management and control of a tank to any person for proper utilisation, he shall issue a notice stating such intention and the copies of such notice inviting applications shall be published in his own office and in the office of the Gram Panchayet having jurisdiction over the tank.
14. **Manner of selection of lessee :** (1) All eligible persons making the tank on lease shall be examined by the competent authority by giving an opportunity of being heard to all of them and thereafter the competent authority shall select a person who in his opinion is the best suited for the purpose having regard to his experience and financial capability and any other factor incidental to the proper control, management and utilisation of the tank.

(2) While selecting a person for the purpose, the competent authority may give preference to a fish production group of a fishermen's co-operative society or a co-owner or co-sharer of the tank if they are found otherwise fit.
15. **Execution of lease deed and transfer of possession :** After selecting a person as per the foregoing rule the competent authority shall transfer the possession of the tank to such person on his execution of a lease deed.
16. **Method of assessment of rent :** The rent payable per annum by a person to the competent authority for taking the tank on lease shall be assessed at the rate of four and a quarter percentum per annum of the market value of the tank. In addition, the lessee shall also pay to the competent authority a reasonable non-recurring lump sum amount on account of any fish not removed by the competent authority.

CHAPTER - III
Fish production Group

17. **Fish Production Group** : Not less than eight and not more than twenty persons may apply to the District Fishery Officer for forming themselves into a fish production group with the object of efficient production and sale of fish in a collective way.
18. **Application** : The application for formation of a fish production group shall be made in the prescribed form appended at Schedule I to these rules.
19. **Qualifications** : All the members of a group shall be adult individuals preferably residing in the same or adjoining areas and shall together not less than four hectares of water area in the aggregate.
20. **Associate member** : In addition to the members referred to in rule 17 a fish production group may also include not more than two persons as associate members who shall have a right to attend a meeting of the group but shall not have any right to vote in any such meeting.
21. **Registration** : After receipt of an application for registration of a group, the District Fishery Officer shall, after making such enquiry as he may deem fit and proper and on being satisfied about the object for which the group is to be formed and about the fitness of the members for achievement of that object, issue a certificate of registration and shall enter the relevant particulars in respect of the group in a register to be maintained for this purpose.
22. **Validity** : The registration of a group shall remain valid until the same is cancelled by the District Fishery Officer.
23. **Meeting** : A group shall hold at least one meeting in every three months and one annual general meeting and all annual general meetings shall be presided over the Fishery Extension Officer having jurisdiction over the water areas possessed by the members of the group.
24. **Rights and duties** : the rights and duties of the members of a group inter-se and those between the group and the associate members shall be such as the members may decide from time to time in a meeting.

25. **Removal and inclusion of members** : The group may remove an existing member or may include a new member at any time if such removal or inclusion is approved by all other members in a meeting.
26. **Books and Accounts** : The group shall maintain such books and accounts as the District Fishery Officer may from time to time direct.
27. **Reports and Returns** : The group shall submit such reports and returns to the District Fishery Officer with a copy to the concerned Fishery Extension Officer as may be required by the Director of Fisheries, West Bengal, by a notification.
28. **Cancellation of registration** : The District Fishery Officer may after giving to the group an opportunity of being heard, cancel the registration of a group on any of the following grounds:—
- (a) That the majority members of the group have decided in a meeting to dissolve the group ;
 - (b) that the group is not functioning for more than a year ;
 - (c) that the group has become unable to function towards achieving the object for which it was formed ;
 - (d) that the number of members has fallen below eight ;
 - (e) that the registration of a group was obtained on the basis of any wrong information on any material point ;
 - (f) that the group has persistently violated the provisions of the Act and the rules, or neglected to abide by any direction lawfully issued by the District Fishery Officer.
29. **Formation of Central Fish Production Group** : An application made by not less than 20 Fish Production Groups within the jurisdiction of a District Fishery Officer the Director of Fisheries may register a Central Fish Production Group. On the registration of such a Central Group, all the Fish Productions Groups within the aforesaid jurisdiction shall be affiliated to that Central Group.

30. **Managing Committee** : The affair of a Central Group shall be managed by a Managing Committee of not less than six and not more than twelve members to be elected every year by the affiliated Groups provided that not more than two such members may be nominated by the Government for each Central Group.
31. **Bye-laws** : The power and functions of a Central Group and its internal management shall be such as may be provided in the bye-laws prepared by each such Central Group with the approval of the Director of Fisheries.
32. **Appex Group** : All the Central Fish Production Groups in the State may form themselves into an Appex Group and on receipt of an application from the Group the Director of Fisheries may register the Appex Group. The affair of the Appex Group shall be managed by a Managing Committee of not less than six and not more than twelve members to be elected every year by the affiliated Central Groups, provided that not more than two such members may be nominated by the Government. The powers and functions of the Appex Group and its internal management shall be such as may be provided in the bye-laws prepared by the Appex Group with the approval of the Director of Fisheries.

CHAPTER - IV

Levy of Fish

33. **Levy Roll** : The competent authority on the basis of his own information or otherwise shall prepare a levy roll showing therein the name and address of the dealers, the quantum and species of fish to be delivered by them, the procurement agent to whom such delivery shall be made and other relevant particulars :

Provided that for the purpose of rules under this Chapter a dealer shall mean and include a catcher, a wholesaler, an importer, an auctioneer and a commission agent of fish.

34. **Publication of levy rolls** : The levy roll prepared under rule 33 shall be published in the office of the competent authority and copies thereof shall also be served on the dealers affected by the levy roll.

35. **Objection :** If any objection is received by the competent authority against any levy within thirty days of its service to a dealer affected, the competent authority shall consider such objections by giving to the objecting dealer an opportunity of being heard.
36. **Final levy roll :** After considering the objections under the foregoing rule, the competent authority shall forward to the Government the levy roll, the objections, if any received against the levy roll and his views on those objections. On considering the objections if any, and the views of the competent authority on those objections, the Government shall prepare the final levy roll and send the same to the competent authority for publishing the same in his office and for serving relevant parts thereof to all dealers affected by that levy roll.
37. **Procurement Agent :** A 'procurement agent' for the purpose of the rules under this Chapter means a person who has been appointed by the government for procurement of levy fish at specified rates from the dealers of fish and for sale of such fish to the consumers at the rates specified by the Government.
38. **Quantum of Fish :** The quantum of fish to be delivered by a dealer shall be ten per cent by weight of the fish dealt in by the respective dealers in a year and shall be delivered to the procurement agent throughout the year in instalments on two fixed dates of every week.
39. **Delivery :** The dealer shall deliver at his usual place of business, the specified quantum of levy, fish to the procurement agent specified in the levy roll.
40. **Rebate :** A rebate or 'dhalta' on the weight of levy fish shall be allowed at the rate of five per cent by the dealer to the procurement agent.
42. **Procurement Price :** The procurement price payable by the procurement agent to the dealer for different species of levy fish shall be such as may be fixed by the Government from time to time by notification.
42. **Quality :** The dealer shall deliver to the procurement agent standard quality of fish fit for human consumption and any dispute regarding quality and fitness for human consumption shall be decided by the competent authority whose decision shall, subject to the provisions of the Act and these rules, be final.

43. **Payment :** The procurement agent shall make payment to the dealer for the levy fish taken delivery of by him within fortyeight hours of such delivery failing which he shall be liable to pay interest at the rate of eighteen per cent per annum on any outstanding amount.
44. **Entry, search and seizure :** The requiring authority or a police officer not below the rank of Assistant Sub-Inspector with a view to securing the delivery of levy fish may—
- (a) inspect or cause to be inspected and document or books of account as well as any stock of fish belonging to a dealer ;
 - (b) require any dealer to give any information of his possession with respect to any purchase or sale or shortage of fish ;
 - (c) stop and search the person and vehicle or vessel or animal used or suspected of being used for delivery of fish from premises where he has reason to believe that fish are stored ;
 - (d) enter and inspect or break upon and search at any time between sunrise and sunset and premises where he has reason to believe that fish are stored :

Provided that in exercising the powers under this rule regard shall be paid to the social and religious custom of the occupants of the places and premises, vehicles or vessels :

Further provided that the requiring authority or police officer shall have power to take such aid or assistance as may be necessary for taking any action under this rule.

45. **Exemption :** The Government having regard to the conditions prevailing in any locality and if it finds it necessary to do so in the public interest may be notification exempt, subject to any condition as it may think fit to impose, any class or classes of dealers from the operation of the provisions of the rules under this chapter.

SCHEDULE - I

(Rule - 18)

Form of application for registration of fish production Group.

To
The District Fishery Officer,
----- (Fishery) District.

Sir,

We, the undersigned persons, of whom relevant particulars have been given in list 1 appended, have resolved to form a fish production group in terms of section 10 of the West Bengal Inland Fisheries Act, 1984 (West Ben. Act XXV of 1984) and rules made thereunder initially with the tanks the particulars of which are given in list 2 appended.

2. It has been resolved by us that initially Shri/Sm.....shall function as the Leader and Shri/Sm.....shall function as the Deputy Leader of the Group.
3. The name of the group shall beand its office shall be located at(full address stating locality, village, post office, police-station, block and district).
4. The object of the group shall be :
 - (a)
 - (b)
 - (c)
5. We are to request you to please register the group as per rules and communicate to us the fact of such registration in due course.

Place

Date Signature

1.
2.
3.
4.

and so on.

LIST - 2

Particulars of the tanks possessed by the members offish production groups

Sl. No.	Local name and location with Dag. No./Khatian No. and Mouza	Area in ha.	Name, address etc. of owners and possessors	present production in Kg./ha.	Depth, present state and history of desilting	Liming made in last 2 years	Application of cowdung in last 2 years	Remarks
1	2	3	4	5	6	7	8	9

By order of the Governor,
B.C. SARMA
Secy. to the Govt. of West Bengal.

**The West Bengal
Inland Fisheries Act, 1984¹**
[West Bengal Act XXV of 1984]
[As amended up to date]

(Passed by the West Bengal Legislature)

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of
the 14th September 1984.]

An Act to provide for the conservation, development propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the conservation, development, 'propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal and for matters connected therewith or incidental thereto;

And whereas previous sanction of the President under the proviso to clause (b) of Article 304 of the Constitution of India has been obtained;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal Inland Fisheries Act, 1984.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions.—(a) In this Act, unless there is anything repugnant in the subject or context,—

(i) "company" means a domestic company or a foreign company.

Explanation 1.— "Domestic company" means a company formed and registered under (he Companies Act, 1056 (I of 1956), and includes company formed and registered under any law relating to companies formerly in force in any part of India:

¹ Published in the *Calcutta Gazette Extraordinary*, vide Notification No. 1711-1 dated 14.9.1984.

Provided that the registered office of the company is in India.

Explanation II.— "Foreign company" means a foreign company within the meaning of section 591 of the Companies Act, 1956, and includes any foreign association, whether incorporated or not, which the Central Government may, by general or special order, declare to be a foreign company for the purposes of this Act;

(ii) "competent authority" means any person or authority authorized by the State Government by notification to perform the functions of ' the competent authority under this Act;

(iii) "firm" has the same meaning as in the Indian Partnership Act, 1932 (9 of 1932);

(iv) "fish" includes aquatic plants and animals in any stage of their life cycle;

(v) "fisherman" means a person who is by caste or by profession a fisherman and is mainly engaged in culture or capture of fish;

(vi) "fishery" means any activity or occupation connected with conservation, development, propagation, protection, exploitation or disposal of fish and fish products, or any place or water area where such activity or occupation is carried on, and includes a tank fishery.

Explanation.—"Tank fishery" shall have the same meaning as in the West Bengal Estates Acquisition Act, 1953 (W. 13 Act I of 1954);

(vii) "fixed engine" includes a net, cage, fishing-fence, anchor, trap or connivance for taking fish, fixed in the soil or made stationary in any other way;

(viii) "Hindu undivided family" has the same meaning as in the Bengal Agricultural Income-tax Act, 1944 (Bengal Act IV of 1944);

(ix) "Multi-ownership tank" means a reservoir for water, held by two or more persons by way of ownership, lease, and mortgage or otherwise;

(x) "notification" means a notification published in (lie *Official Gazelle*;

(xi) "person" includes a Hindu undivided family, company, firm, institution (by whatever name called), fish production group, *Gram Panchayai*, *Panchayat Samity*, *Zilla Parishad*, Co-operative society or Other association of persons;

(xii) "prescribed" means prescribed by rules made under this Act;

(xiii) "public purpose" means any purpose having, or being connected with, any of the following objects:—

- (a) the improvement or development of fishery,
- (b) the supply of fish to consumers from fishery,

(c) any other object ancillary or incidental to the object referred to in sub-clause (a) or sub-clause (b).

CHAPTER II

Conservation and propagation

3. Conservation and propagation of fish.—(1) The State Government 'may, for the purpose of conservation and propagation of fish, by notification restrict, for any specified area and for a specified period, fishing of specified size, group or species of fish, including the following:—

- (i) the erection or use of fixed engine;
- (ii) the construction, temporary or permanent, of any weir, dam or *bundh*;
- (iii) the dimension and kind of any net or size of any mesh or any other fishing contrivance, and the model of using them.

(2) No person shall construct any darn, barrage, *bundh* or barrier of any kind whatsoever on a flowing river without making provision for fish-pass or fish-ladder of such description and in such manner as may be directed by the competent authority.

4. Angling in specified area.—No person shall, .without obtaining permission from the competent authority, catch fish by angling in such area as the State Government may by notification specify.

5. Destruction of fish by explosive substance or poisoning. — If any person uses any dynamite or other explosive substance or puts any poison, lime or noxious material in any fishery or other water area with intent, to catch or destroy any fish therein, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

6. Protection of fish.—(1) No person shall discharge into any flowing water or any confined water area any industrial waste, sewage or other polluting substance that may affect the health or life of fish or cause destruction of fish, or act in contravention of any rules regulating the protection of fish.

(2) Any person causing pollution of any flowing water or any confined water area in contravention of the provisions of sub-section (1) shall be directed by the State Government for the prevention of such pollution within a specified time, failing which the State Government shall take such measures as it may think fit for the prevention of such pollution, and the entire cost in this behalf or any part thereof shall be recovered from such person.

(3) Without prejudice to the provisions of the foregoing sub-section, any person causing pollution of any flowing water or any confined water area may also be prosecuted and shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

CHAPTER III Management

7. Breed fish management.—The State Government may prescribe by rules the minimum age, length and weight of fish that shall be used for induced breeding for any purpose other than scientific research.

8. Proper utilization of multi-ownership or other tanks for pisciculture.—(1) If the competent authority, on receipt of an information or on his own motion or otherwise, is satisfied that a multi-ownership tank is not utilized in accordance with the prevailing norms of pisciculture and that it is necessary for any public purpose so to do, he may, after giving one month's notice to the owner and the possessor of such tank, by order in writing take over the management and control of such tank.

(2) The management and control of such tank may be transferred by the competent authority to any person for proper utilization of such tank in such manner as may be prescribed.

(3) Every co-sharer or co-owner of a multi-ownership tank shall be entitled to receive rent for taking over the management and control of such tank by the competent authority at such rate as may be determined by that authority in the manner prescribed.

(4) The management and control of a multi-ownership tank may be taken over under sub-section (1) for a period not exceeding 25 years or transferred to any person under sub-section (2) for a period not exceeding 10 years at a time.

(5) If the person referred to in sub-section (2.) fails to utilize the multi-ownership tank in accordance with the prevailing norms of pisciculture, the competent authority may, after giving notice to such person, resume the management and control of such tank without payment of any rent or compensation to such person: and such tank may thereafter be managed by the competent authority or transferred to some other person for pisciculture.

(6) The provisions of this section shall apply, *mutatis mutandis*, to any tank owned or possessed by a single person, or a tank owned by the State Government jointly with other person or persons.

9. Distribution of sewage water.—(1) The State Government may, for the purpose of making an equitable distribution of sewage water for the sewage-fed fisheries, set up a committee with such members as may be prescribed.

(2) The committee shall exercise such powers as may be prescribed.

10. Fish production group.—A cluster of fishermen or other persons or both may for the purpose of efficient production and sale of fish in a collective way, form and register a fish production group in such manner as may be prescribed:

Provided that no person who is a member of any fishermen's cooperative society, registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1973 (W. B. Act XXXVIII of 1973), shall be a member of a fish production group.

11. Building up of buffer stock and levy of fish.—(1) The State Government may, if it thinks fit so to do, build up a buffer stock of fish for the purpose of ensuring a steady supply to consumers.

(2) For the purpose mentioned in sub-section (1) the State Government may impose a levy on producers and wholesale dealers of fish at such scale and in such manner as may be prescribed:

Provided that such imposition of levy shall come into force in such areas and in respect of such species of fish as the State Government may by notification specify.

Explanation.—"producer" shall include a catcher.

12. Sale of rejected fish.—No fish or fish product rejected by any authority empowered to do so under any law for the time being in force as being unfit for export shall be put to sale for human consumption, unless the same has been certified by an authority; appointed by the State Government by notification, to be fit for such consumption and such authority shall also indicate in the certificate the period of validity thereof.

13. Standard measure.—No person shall sell fish-spawn without using such standard measure as may be specified by the State Government by notification.

14. Regulated fish-market.—Notwithstanding anything to the contrary contained in any other law for the time being in force, the State Government may by notification declare any area as a fish-market **area** within which purchase and sale of fish shall be regulated in accordance with such rules as may be prescribed.

15. Fish-market.—The owner or lessee of a fish-market wholly or partly meant for sale of fish shall ensure such hygienic condition in such market as may be prescribed.

16. Observance of hygienic rule by a dealer.—(1) Every person ordinarily dealing in fish of any quantity exceeding ten kilograms by way of sale, exposing for sale, transportation, storage, preservation or processing shall observe such hygienic and sanitary conditions as may be prescribed.

(2) If any person fails to observe any hygienic or sanitary condition as provided in the rules referred to in sub-section (1), he shall be punished with fine which may extend to ten thousand rupees.

17. Fishing labour.—(1) The State Government may make rules regulating the payment of wages, either in cash or in kind or in both, the weekly duty hours and other terms and conditions of employment of the labour employed in fishing activity of any kind.

(2) Such rules may also provide for the mode of settlement of disputes between a fisherman and the labour employed by him.

²(CHAPTER IIIA

Bar to conversion of water area etc. for other use

17A. Bar to conversion of water area etc. for other use. — (1) No person shall—

(a) put any water area including embankment measuring 5 cottahs or 0.005 hactre or more, which is capable of being used as fishery, or any naturally or artificially depressed land holding measuring 5 cottahs or 0.035 hectare or more, which retains water for a minimum period of six months in a year, to such use, other than fishery, as may result in abolition of fishery, or

(b) fill up any water area including embankment or naturally or artificially depressed land holding as aforesaid, with a view to converting it into solid land for the purpose of construction of any building thereon or for any other purpose, or

(c) divide any water area including embankment or naturally or artificially depressed land holding as aforesaid into parts so as to make any such part measure less than 5 cottahs or 0.035 hectare for any purpose other than pisciculture or transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person.

(2) If the competent authority, on receipt of an information or on his own motion or otherwise, is satisfied that—

² Ins by the West Bengal Inland Fisheries (Amendment) Act. 1993 (W. B. Act XIX of 1993) *vide* Notification No. 364-L dated 23 1994.

(a) any water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), is being, or is about to be, put to any use, other than fishery, or

(b) any such water area including embankment or naturally or artificially depressed land holding is being, or is about to be, filled up, or

(c) any such water area including embankment or naturally or artificially depressed land holding is being, or is about to be, divided into parts, or any part of any such water area including embankment or naturally or artificially depressed land holding as so divided is being, or is about to be transferred to any other person, in contravention of the provisions of sub-section (1), and that it is necessary for the purpose of promotion of pisciculture, checking of destruction of fisheries and prevention of environmental degradation so to do, he may, by order in writing, take over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be.

(3) An order under sub-section (2) shall be served in the prescribed manner on the owner of the water area including embankment or naturally or artificially depressed land holding, as the case may be, or, where the water area including embankment or naturally or artificially depressed land holding is in occupation of any person, not being the owner of such water area including embankment or naturally or artificially depressed land holding, on such person.

(4) The management and control of such water area including embankment or naturally or artificially depressed land holding may be transferred by the competent authority to any person for proper utilization for pisciculture of such water area including embankment or naturally or

(c) divide any water area including embankment or naturally or artificially depressed land holding as aforesaid into parts so as to make any such part measure less than 5 cottahs or 0.035

hectare for any purpose other than pisciculture or transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person.

(2) If the competent authority, on receipt of an information or on his own motion or otherwise, is satisfied that —

(a) any water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), is being, or is about to be, put to any use, other than fishery, or

(b) any such water area including embankment or naturally or artificially depressed land holding is being, or is about to be, filled up, or

(c) any such water area including embankment or naturally or artificially depressed land holding is being, or is about to be, divided into parts, or any part of any such water area including embankment or naturally or artificially depressed land holding as so divided is being, or is about to be transferred to any other person, in contravention of the provisions of sub-section (1), and that it is necessary for the purpose of promotion of pisciculture, checking of destruction of fisheries and prevention of environmental degradation so to do, he may by order in writing, take over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be.

(3) An order under sub-section (2) shall be served in the prescribed manner on the owner of the water area including embankment or naturally or artificially depressed land holding, as the case may be, or, where the water area including embankment or naturally or artificially depressed land holding is in occupation of any person, not being the owner of such water area including embankment or naturally or artificially depressed land holding, on such person.

(4) The management and control of such water area including embankment or naturally or artificially depressed land holding may be transferred by the competent authority to any person for proper utilization for pisciculture of such water area including embankment or naturally or artificially depressed land holding, as the case may be, in such manner as may be prescribed.

(5) Every co-sharer or co-owner of a water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), shall be entitled to receive rent for taking over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, by the competent authority at such rate as may be determined by that authority in the manner prescribed,

(6) The management and control of any water area including embankment or naturally or artificially depressed land holding may be taken over under sub-section (2) for a period

not exceeding 25 years or transferred to any person under sub-section (4) for a period not exceeding 10 years at a time.

(7) If the person referred to in sub-section (4) fails to utilize the water area including embankment or naturally or artificially depressed land holding, as the case may be, in accordance with the prevailing norms of pisciculture, the competent authority may, after giving notice to such person, resume the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, without payment of any rent or compensation to such person; and such water area including embankment or naturally or artificially depressed land holding, as the case may be, may thereafter be managed by the competent authority or transferred to some other person for pisciculture.

(8) The provisions of this section shall apply, *mutatis mutandis*, to any water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), which is owned or possessed by any person or persons either jointly or severally or owned by the State Government jointly with other person or persons.

(9) No water area including embankment-or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), shall be

- (a) put to any use other than fishery, or
- (b) filled up with a view to convening it into solid land,

for the purpose of implementation of any development scheme by any department of the Central Government or the State Government or any public undertaking under the administrative control of the Central Government or the State Government or any statutory body or local authority or any organization in the public sector or any organization or individual in the private sector, except with the prior approval of the State Government in the Department of Fisheries.

(10) (a) The competent authority may, by a written notice, require an) person who, by contravening the provisions of sub-section (1),—

- (i) puts any water area including embankment or naturally or artificially .depressed land holding to any use other than fishery, or
- (ii) fills up any water area including embankment or naturally or artificially depressed land holding with a view to converting it into solid land, or
- (iii) divides any water area including embankment or naturally or artificially depressed land holding into parts for any purpose other than pisciculture or

transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person, to restore, within such period as may be specified in the notice, such water area including embankment or naturally or artificially depressed land holding, as the case may be, to its original condition at his own expense.

(b) If such person fails to restore such water area including embankment or naturally or artificially depressed land holding to its original condition within the period specified in the notice under clause (a), the competent authority may, by order in writing, take over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, restore it to its original condition, and recover the entire cost in this behalf or any part thereof from such person.

(c) The management and control of such water area including embankment or naturally or artificially depressed land holding as may be Taken over by the competent authority under clause (b) may be transferred by the competent authority to any person for proper utilisation of such water area including embankment or naturally or artificially depressed land holding, as the case may be, in such manner as may be prescribed. And, thereupon, the provisions of sub-sections (5), (6), (7) and (8) shall apply to such water area including embankment or naturally or artificially depressed land holding, as the case may be.

(11) Any person who commits any offence by contravening the provisions of sub-section (1) shall, without prejudice to the provisions of sub-section (10), be punished with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and the provisions of section 20 shall not apply to such person.]

³[(12) An offence under sub-section (11) shall be cognizable and non-bailable.]

CHAPTER IV Miscellaneous

18. Appeal.—(1) An appeal against any order of the competent authority made under this Act or the rules made thereunder may be preferred within a period of thirty days from the date of communication of the order to the person aggrieved by such order:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

³ Ins. by the West Bengal Inland Fisheries (Amendment) Act, 1997 (W. B. Act XXI of 1997).

(2) An appeal under sub-section (1) shall lie with such officer, not below the rank of Deputy Director of Fisheries, as the State Government may by notification appoint.

(3) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as it deems fit within a period not exceeding ninety days from the date of admission of the appeal.

(4) Every order passed by the appellate authority under this section shall be final.

19. Power to make rules.—(1) The State Government may by notification make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed.

20. Penalty.—Whoever commits any offence by—

(a) contravening any of the provisions of this Act, or

(b) failing to comply with any direction lawfully given to him or any requisition lawfully made to him under this Act, shall, except as otherwise provided in this Act, be punished with fine which may extend to five thousand rupees.

21. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the State Government ... any officer or authority for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

22. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act, save on complaint made by a fishery officer not below the rank of a District Fishery Officer or a police-officer not below the rank of a Sub-Inspector.

23. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, express or implied, or in any instrument having effect by virtue of any law other than this Act or in any custom or usage.

Important Notifications
Government of West Bengal
Fisheries Department

NOTIFICATION

No. 2125-Fish/C-I/7R-7/84 Pt. VI

Calcutta, the 12th November, 1998

In exercise of the power conferred by sub-section (3) of section 1 of the West Bengal Inland Fisheries Act, 1984 (West Ben. Act XXV of 1984), the Governor is pleased hereby to appoint the 16th day of November, 1998 as the date on which sections 3, 4, 5, 6, 7, 9, 12, 13, 16, 20, 21, 22 and 23 of the said Act shall come into force.

By order of the Governor
Sri/- N. Chaturvedi
Secy, to the Govt, of West Bengal

NOTIFICATION

No. 2126-Fish/C-I/7K-7/84 Pt. VI

Calcutta, (the 12th November, 1998

In exercise of the power conferred by clause (ii) of section 2 of the West Bengal Inland Fisheries Act, 1984 (West Ben. Act XXV of 1984) the Governor is pleased hereby to authorize—

- (a) the Assistant Director of Fisheries in charge of Fishery Districts, and
- (b) the District Fishery Officer in charge of a fishery district, in the absence of the Assistant Director of Fisheries, to perform within his jurisdiction the functions of the competent authority under the said Act with effect from the 16th day of November, 1998.

By order of the Governor
Sd/- N. Chaturvedi
Secy, to the Govt, of West Bengal